CHAPTER 3

SEARCH AND SEIZURE

What is a search? What are the rights of an individual being searched? What procedures must be followed in requesting and conducting a search? What are the different types of searches?

As an MA, you will undoubtedly be involved in conducting searches. Therefore, you must familiarize yourself with the procedures in conducting a search, preparation of the associated paper work, and the rights of the individual being searched. The following discussions are intended to help you answer the previous questions and become familiar with the standards that must be followed to make sure a search has been conducted properly. In addition to these discussions, you should familiarize yourself with the applicable command instructions and JAG directives on search and seizure procedures.

Each military member has a constitutionally protected right to privacy. However, a service member's expectation of privacy must occasionally be infringed upon because of military necessity. Military law recognizes that the individual's right to privacy is balanced against the command's legitimate interests in maintaining health, welfare, discipline, and readiness, as well as by the need to obtain evidence of criminal offenses.

Searches and seizures conducted according to the requirements of the *United States Constitution* will generally yield admissible evidence. On the other hand, evidence obtained in violation of constitutional mandates will not be admissible in any later criminal prosecution. With this in mind, the most productive approach for you is to develop a thorough knowledge of what actions are legally permissible (producing admissible evidence for trial by court-martial) and what actions are not. This understanding will enable the command to determine, before acting in a situation, whether prosecution will be possible. The legality of the search or seizure depends on what was done by the command at the time of the search or seizure. No amount of legal brilliance by a trial counsel (TC) at trial can undo an unlawful search and seizure.

SOURCES OF THE LAW OF SEARCH AND SEIZURE

LEARNING OBJECTIVES: Explain the Fourth Amendment to the *Constitution* and describe probable cause, particularly described, and the exclusionary rule. Identify how the *Manual for Courts-Martial* (MCM) applies to search and seizure in terms of the Military Rules of Evidence (MRE).

The two sources we will discuss regarding search and seizure include the Constitution and the MCM.

UNITED STATES CONSTITUTION

Although enacted long ago, the language of the Fourth Amendment to the *Constitution* has never changed. The Fourth Amendment was not an important part of American jurisprudence until this century when courts created an exclusionary rule based on its language:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Probable Cause

An important concept contained in the Fourth Amendment is that of probable cause. This concept is not particularly complicated, nor is it as confusing as often assumed.

In deciding whether probable cause exists, you must first remember that conclusions of others do not comprise an acceptable basis for probable cause. The person who is called upon to determine probable cause must, in all cases, make an independent assessment of facts presented before a constitutionally valid finding of probable cause can be made. The concept of probable cause arises in many different factual situations. Numerous individuals in a command may be called upon to establish its presence during an investigation.

Although the reading of the *U.S. Constitution* would indicate that only searches performed pursuant to a warrant are permissible, there have been certain exceptions carved out of that requirement, and these exceptions have been classified as searches otherwise reasonable. Probable cause plays an important role in some of these searches that will be dealt with individually in this chapter.

Although the Fourth Amendment mandates that only information obtained under oath may be used as a basis for probable cause, military courts traditionally ignored this requirement. Still, it is strongly recommended that the information be given under oath. When a person takes an oath, it is a factor that adds to the believability of that person.

Particularly Described

The Fourth Amendment also provides that no search or seizure will be reasonable if the intrusion is into an area not particularly described. This requirement requires a particular description of the place to be searched and items to be seized. Thus, the intrusion by Government officials must be as limited as possible in areas where a person has a legitimate expectation of privacy.

Exclusionary Rule

The exclusionary rule of the Fourth Amendment is a judicially created rule based upon the language of the Fourth Amendment. The U.S. Supreme Court considered this rule necessary to prevent unreasonable searches and seizures by Government officials. In more recent decisions, the Supreme Court has reexamined the scope of this suppression remedy and concluded that the rule should only be applied where the Fourth Amendment violation is substantial and deliberate. So, where Government agents are acting in an objectively reasonable manner (in good faith), the evidence seized should be admitted despite technical violations of the Fourth Amendment.

MANUAL FOR COURTS-MARTIAL (MCM)

By a 1980 amendment to the MCM, the Military Rules of Evidence (MRE) were enacted. The MRE provide extensive guidance in the area of search and seizure in rules 300-317. Anyone charged with the responsibility for authorizing and conducting lawful searches should be familiar with those rules. Unlike the area of confessions and admissions, which are covered in Article 31 of the UCMJ, there is no basis in the *Uniform Code of Military Justice* (UCMJ) for the military law of search and seizure.

THE LANGUAGE OF THE LAW OF SEARCH AND SEIZURE

LEARNING OBJECTIVES: Define the words and terms related to search and seizure.

Certain words and terms must be defined to properly understand their use in this chapter. These definitions are as follows:

SEARCH

A *search* is a quest for incriminating evidence. It is an examination of a person or an area with a view to the discovery of contraband or other evidence to be used in a criminal prosecution. Three factors must exist before the law of search and seizure will apply. Does the command activity constitute any of the following:

- A quest for evidence
- A search conducted by a Government agent
- A search conducted in an area where a reasonable expectation of privacy exists

If, for example, it were shown that the evidence in question had been abandoned by its owner, the quest for such evidence by a Government agent that led to the seizure of the evidence would present no problem, since there was no reasonable expectation of privacy of such property.

SEIZURE

A *seizure* is taking possession of a person or some item of evidence in conjunction with the investigation of criminal activity. The act of seizure is separate and distinct from the search, the two terms varying significantly in legal effect. On some occasions a search of an area may be lawful, but not a seizure of certain items thought to be evidence. Examples of this distinction will be seen later in this chapter. MRE 316 deals specifically with seizures and creates some basic rules for application of the concept. Except in cases of abandoned property, a proper person (such as anyone with the rank of E-4 or above) or a criminal investigator Naval Criminal Investigative Service (such as a (NCIS) special agent) must be used to make the seizure.

PROBABLE CAUSE TO SEARCH

Probable cause to search is a reasonable belief, based upon believable information having a factual basis, that a crime has been committed and that the person, property, or evidence sought is located in the place or on the person to be searched.

Probable-cause information generally comes from any of the following sources:

- Written statements
- Oral statements communicated in person, via telephone, or by other appropriate means of communication
- Information known by the authorizing officer (the commanding officer (CO))

PROBABLE CAUSE TO APPREHEND

Probable cause to apprehend an individual is similar in that an authority must conclude, based upon facts, that a crime was committed and that the person to be apprehended is the person who committed the crime.

A detailed discussion of the requirement for a finding of probable cause to search appears later in this chapter. Further discussion of the concept of probable cause to apprehend also appears later in this chapter in connection with searches incident to apprehension.

OBJECTS OF A SEARCH OR SEIZURE

LEARNING OBJECTIVES: List and describe eight categories of evidence that maybe seized.

In carrying out a lawful search or seizure, agents of the government are bound to look for and seize only items that provide some link to criminal activity. MRE 316 provides, for example, that the following categories of evidence may be seized:

- Unlawful weapons made unlawful by some law or regulation
- Contraband or items that may not legally be possessed
- Evidence of a crime that may include such things as instrumentalities of crime, items used to commit crimes, fruits of crime, such as stolen property, and other items that aid in the successful prosecution of a crime
- Persons, when probable cause exists for apprehension
- Abandoned property that may be sized or searched for any or no reason, by any person
- Government property

With regard to government property, the following rules apply:

- Generally, government agents may search for and seize such property for any or no reason, and there is a presumption that no privacy expectation attaches.
- Footlockers or wall lockers are presumed to carry with them an expectation of privacy; thus they can be searched only when the Military Rules of Evidence permit.

CATEGORIZATION OF SEARCHES

LEARNING OBJECTIVES: Describe probable-cause searches with and without prior authorization. Explain searches not requiring probable cause.

In discussing the law of search and seizure, we can divide all search and seizure activity into two broad areas: those that require prior authorization and those that do not. Searches that do not require prior authorization are (1) searches requiring probable cause and (2) searches not requiring probable cause. Since the constitutional mandate of reasonableness is most easily met by searches based on prior authorization, authorized searches are preferred. The courts have recognized, however, that some situations require immediate action, and here the reasonable alternative is a search without prior authorization. Although this second category is more closely scrutinized by the courts, several valid approaches can produce admissible evidence.

PROBABLE-CAUSE SEARCHES BASED UPON PRIOR AUTHORIZATION

The military search authorization is a prior-authorization search, like that described in the text of the Fourth Amendment, but is the express product of MRE 315. Although the prior military law

contemplated that only officers in command could authorize a search, MRE 315 clearly intends that the power to authorize a search follows the billet occupied by the person involved, rather than be founded in rank or officer status. Thus, in those situations where senior noncommissioned or petty officers occupy positions as officers in charge (OICs) or positions similar to command, they are generally competent to authorize searches unless otherwise directed by the Secretary of the Navy.

In the typical case, the commander or other competent military authority, such as an OIC, decides, when issuing a search authorization, whether probable cause exists. Although there is no exclusion of COs per se, courts will decide, on a case-by-case basis, whether a particular commander was in fact neutral and detached. MRE 315(d) provides that:

> An otherwise impartial authorizing official does not lose that character merely because he or she is present at the scene of a search or is otherwise readily available to persons who may seek the issuance of a search authorization; nor does such an official lose impartial character merely because the official previously and impartially authorized investigative activities when such previous authorization is similar in intent or function to a pretrial authorization made by the United States district courts.

Jurisdiction to Authorize Searches

Before any competent military authority can lawfully order a search and seizure, he or she must have the authority necessary over both the person and/or place to be searched, and the persons or property to be seized. This authority, or jurisdiction, is most often a dual concept-jurisdiction over the place and over the person. Any search or seizure authorized by one not having jurisdiction is a nullity and, even though otherwise valid, the fruits of any seizure would not be admissible in a trial by court-martial if objected to by the defense.

JURISDICTION OVER THE PERSON.— It is critical to any analysis of the authority of the CO over persons to determine whether the person is a civilian or military witness.

Civilians.—The search of civilians is now permitted under MRE 315(c) when they are present aboard military installations. This gives the military commander an additional alternative in such situations where the only possibility before the MRE was to detain that person for a reasonable time while a warrant was sought from the appropriate federal or state magistrate. Furthermore, a civilian desiring to enter or exit a military installation may be subject to a reasonable inspection as a condition precedent to entry or exit. Such inspections have recently been upheld as a valid exercise by the commander of the administrative need for security of military bases. Inspections will be discussed later in this chapter.

Military.— MRE 315 indicates two categories of military persons who are subject to search by the authorization of competent military authority—members of that CO's unit and others who are subject to military law when in places under that CO's jurisdiction; for example, aboard a ship or in a command area. There is military case authority for the proposition that the commander's power to authorize searches of members of his or her command goes beyond the requirement of presence within the area of the command. In one case, the court held that a search authorized by the accused's CO, although actually conducted outside the squadron area, was nevertheless lawful. Although this search occurred within the confines of an Air Force base, a careful consideration of the language of MRE 315(d)(1) indicates that a person subject to military law could be searched even while outside the military installation. This would hold true only for the search of the person, since personal property located off base is not under the jurisdiction of the CO if situated in the United States, its territories, or possessions.

JURISDICTION OVER THE PROPERTY.— Several topics must be considered when determining whether a CO can authorize the search of property. It is necessary to decide first if the property is Government-owned and, if so, whether it is intended for Governmental or private use. If the property is owned, operated, or subject to the control of a military person, its location determines whether a commander may authorize a search or seizure. If the private property is owned or controlled by a civilian, the commander's authority does not extend beyond the limits of the pertinent command area.

Property that is Government-owned and not intended for private use may be searched at any time, with or without probable cause, for any reason, or for no reason at all. Examples of this type of property include Government vehicles, aircraft, ships.

Property that is Government-owned but has a private use by military persons (therefore, an expectation of privacy) maybe searched by the order of

the CO having control over the area, but probable cause is required. An example of this type of property is a BOQ/BEQ room.

MRE 314 attempts to remove the confusion about which kinds of Government property involve expectations of privacy. The intent of the rule in this area is to affirm that there is a presumed right to privacy in wall lockers, footlockers, and in items issued for private use. With other Government equipment, there is a presumption that no personal right to privacy exists.

Property that is privately owned and controlled or possessed by a military member within a military command area (including ships, aircraft, and vehicles) within the United States, its territories, or possessions, may be ordered searched by the appropriate military authority with jurisdiction—if the probable-cause requirement is fulfilled. Examples of this type of property include automobiles, motorcycles, and luggage.

Private property that is controlled or possessed by a civilian (any person not subject to the UCMJ) may be ordered searched by the appropriate military authority only if such property is within the command area (including vehicles, vessels, or aircraft). If the property ordered searched is, for example, a civilian banking institution located on base, attention must be given to any additional laws or regulations that govern those places.

Searches outside the United States, its territories or possessions, constitute special situations. Here the military authority or his or her designee may authorize searches of persons subject to the UCMJ, their personal property, vehicles, and residences, on or off a military installation. Any relevant treaty or agreement with the host country should be complied with. The probable-cause requirement still exists. Except where specifically authorized by international agreement, foreign agents do not have the right to search areas considered extensions of the sovereignty of the United States.

Delegation of the Power to Authorize Searches

Traditionally, commanders have delegated their power to authorize searches to their chief of staff, command duty officer (CDO), or even the officer of the day (OOD). This practice was held to be illegal, as the Court of Military Appeals has held that a CO may not delegate the power to authorize searches and seizures to anyone except a military judge or military magistrate. The court decided that most searches authorized by delegees such as CDOs would result in unreasonable searches or seizures in violation of the Fourth Amendment. If full command responsibility devolves upon a subordinate, that person may authorize searches and seizures, since the subordinate in such cases is acting as the CO. General command responsibility does not automatically devolve to the CDO, OOD, or even the executive officer (XO) simply because the CO is absent. Only if full command responsibilities devolve to a subordinate member of the command may that person lawfully authorize a search. If, for example, the CDO or OOD must contact a superior officer or the CO before acting on any matter affecting the command, full command responsibilities will not have devolved to that person and, therefore, he or she could not lawfully authorize a search or seizure. Guidance on this matter has been issued by the Commander in Chief Atlantic Fleet (CINCLANTFLT), Commander in Chief Pacific Fleet (CINCPACFLT), and Commander in Chief U.S. Naval Forces, Europe (CINCUSNAVEUR). Until the courts provide further guidance on this issue, you should follow the guidance set forth by your respective CINCs.

The Requirement of Neutrality and Detachment

A commander must be neutral and detached when acting on a request for search authorization. The courts have issued certain rules that, if violated, will void any search authorized by a CO on the basis of lack of neutrality and detachment. These rules are designed to prevent an individual who has entered the evidence-gathering process from thereafter acting to authorize a search. The intent of both the courts' decisions and the rules of evidence is to maintain impartiality in each case. Where a commander has become involved in any capacity concerning an individual case, the commander should carefully consider whether his or her perspective can truly be objective when reviewing later requests for search authorization.

If a commander is faced with a situation in which action on a search authorization request is impossible because of a lack of neutrality or detachment, a superior commander in the chain of command or another commander who has jurisdiction over the person or place should be asked to authorize the search.

The Requirement for Probable Cause

As discussed earlier, the probable-cause determination is based upon a reasonable belief that a crime was committed and that certain persons, property, or evidence related to that crime will be found in the place or on the persons to be searched.

Before an authority may conclude that probable cause to search exists, he or she should have a

reasonable belief that the information giving rise to the intent to search is believable and has a factual basis.

The portion of MRE 315 dealing with probable cause recognizes the proper use of hearsay information in the determination of probable cause and allows such determinations to be based either wholly or in part on such information.

Probable cause must be based on information provided to or already known by the authorizing official. Such information can come to the commander through written documents, oral statements, messages relayed through normal communications procedures, such as the telephone or by radio, or may be based on information already known by the authorizing official.

In all cases, both the factual basis and believability basis should be satisfied. The factual basis requirement is met when an individual reasonably concludes that the information, if reliable, adequately apprises him or her that the property in question is what it is alleged to be and is located where it is alleged to be. Information is believable when an individual reasonably concludes that it is sufficiently reliable to be believed.

The method of application of the tests will differ, however, depending upon circumstances. The following examples are illustrative:

- An individual making a probable-cause determination who observes an incident firsthand must determine only that the observation is reliable and that the property is likely to be what it appears to be. For example, an officer who believes that he or she sees an individual in possession of heroin must first conclude that the observation was reliable (whether his or her eyesight was adequate and the observation was long enough) and that he or she has sufficient knowledge and experience to be able reasonably to believe that the substance in question is in fact heroin.

- An individual making a probable-cause determination who relies upon the in-person report of an informant must determine both that the informant is believable and that the property observed is likely to be what the observer believes it to be. The determining individual may consider the demeanor of the informant to help determine whether the informant is believable. An individual known to have a clean record and having no bias against the suspect is likely to be credible.

- An individual making a probable-cause determination who relies upon the report of an informant not present before the authorizing official must determine both that the informant is believable and that the information supplied has a factual basis. The individual making the determination may use one or more of the following factors to decide whether the informant is believable:

  — Prior record as a reliable informant—Has the informant given information in the past that proved to be accurate?

  — Corroborating detail—Has enough detail of the informant's information been verified to imply that the remainder can reasonably be presumed to be accurate?

  — Statement against interest—Is the information given by the informant sufficiently adverse to the pecuniary or penal interest of the informant to imply that the information may reasonably be presumed to be accurate?

  — Good citizen—Is the character of the informant, as a person known by the individual making the probable-cause determination, such as to make it reasonable to presume that the information is accurate?

  These factors are not the only ways to determine an informant's believability. The commander may consider any factor tending to show believability, such as the informant's military record, his or her duty assignments, and whether the informant has given the information under oath.

  Mere allegations, however, may not be relied upon. Thus, an individual may not reasonably conclude that an informant is reliable simply because the informant is described as such by a law enforcement agent. The individual making the probable-cause determination should be supplied with specific details of the informant's past actions to allow that individual to personally and reasonably conclude that the informant is reliable. The informant's identity need not be disclosed to the authorizing officer, but it is often a good practice to do so.

Finally, probable cause must be determined by the person who is asked to authorize the search without regard to the prior conclusions of others on the question to be answered. No conclusion of the authorizing official should ever be based on a conclusion of some other person or persons. The determination that probable cause exists can be arrived at only by the officer charged with that responsibility.

Execution of the Search Authorization

MRE 315(h) provides that a search authorization or warrant be served upon the person whose property is to be searched if that person is present. Further, the persons who actually perform the search should compile an inventory of items seized and should give

a copy of the inventory to the person whose property is seized. If searches are carried out in foreign countries, the rule provides that actions should conform to any existing international agreements. Failure to comply with these provisions, however, will not necessarily render the items involved inadmissible at a trial by court-martial.

Record of Search Authorization

Although written forms are not mandatory, they are highly recommended for several reasons. Many cases may take some time to get to trial, and it is helpful to the parties involved to review such documents before testifying. Further, these records may be introduced to prove that the search was lawful.

The Judge Advocate General of the Navy has recommended the use of the standard record of search authorization form, set forth in the *JAG Manual* and shown in figure 3-1. Should the situation require an immediate determination of probable cause, with no time to use the form, make a record of all facts used

RECORD OF AUTHORIZATION TO SEARCH
(See JAGMAN 0170)

1. At _____ on _____ I was approached by _____
Time Date Name, Rate, Service

in his or her capacity as _____ who having been first duly sworn, advised me that
Duty

he or she suspected _____ of _____ and requested permission
Name Offense

to search his or her _____ for _____
Object or Place Items

2. The reasons given to me for suspecting the above named person were:

_____

_____

_____

_____

_____

_____

3. After carefully weighing the foregoing information, I was of the belief that the crime of _____
_____ [had been] [was being] [was about to be] committed, that
_____ was the likely perpetrator thereof, that a search of the object or area stated above would probably produce the items stated and that such items were [the fruits of crime] [the instrumentalities of a crime] [contraband] [evidence].

4. I have therefore authorized _____ to search the place named for the property specified, and if the property be found there, to seize it.

_____
Grade Signature Title

_____
Date and Time

Figure 3-1.—Record of authorization to search.

and actions taken as soon as possible after the events have occurred.

PROBABLE-CAUSE SEARCHES WITHOUT PRIOR AUTHORIZATION

As discussed earlier, there are two basic categories of searches that can be lawful if properly executed. Our discussion to this point has centered on those types of searches that require prior authorization. We will now discuss those categories of searches that have been recognized as exceptions to the general rule requiring authorization before the search. Recall that within this category of searches there are searches requiring probable cause and searches not requiring probable cause.

Exigency Searches

This type of search is permitted by MRE 315(g) under circumstances demanding some immediate action to prevent removal or disposal of property believed, on reasonable grounds, to be evidence of a crime. Although the exigencies may permit a search to be made without the requirement of a search authorization, the same quantum of probable cause required for search authorizations must be found to justify an intrusion based on exigency. Prior authorization is not required under MRE 315(g) for a search based upon probable cause under the following circumstances:

INSUFFICIENT TIME.— No authorization need be obtained where there is probable cause to search and there is a reasonable belief that the time required to obtain an authorization would result in the removal, destruction, or concealment of the property or evidence sought. Although both military and civilian case law, in the past, have applied this doctrine almost exclusively to automobiles, it now seems possible that this exception may be a basis for entry into barracks and apartments in situations where drugs are being used. The Court of Military Appeals found that an OOD, when confronted with the unmistakable odor of burning marijuana outside the accused's barracks room, acted correctly when he demanded entry to the room and placed all occupants under apprehension without first obtaining the CO's authorization for his entry. The fact that he heard shuffling inside the room and was on an authorized tour of living spaces was considered crucial, as well as the fact that the unit was overseas. The court felt that this was a present danger to the military mission, and thus military necessity warranted immediate action.

LACK OF COMMUNICATION.— Action is permitted in cases where probable cause exists and destruction, concealment, or removal is a genuine concern, but communication with an appropriate authorizing official is prevented by reasons of military operational necessity. For instance, where a nuclear submarine, or a Marine Corps unit in the field maintaining radio silence lacks a proper authorizing official (perhaps due to some disqualification on neutrality grounds), no search would otherwise be possible without breaking the silence and perhaps endangering the unit and its mission.

SEARCH OF OPERABLE VEHICLES.— This type of search is based upon the U.S. Supreme Court's creation of an exception to the general warrant requirement where a vehicle is involved. Two factors are controlling. First, a vehicle may easily be removed from the jurisdiction if a warrant or authorization were necessary; and second, the court recognizes a lesser expectation of privacy in automobiles. In the military, the term *vehicle* includes vessels, aircraft, and tanks, as well as automobiles, trucks, and so on. If probable cause exists to stop and search a vehicle, then authorities may search the entire vehicle and any containers found therein in which the suspected item might reasonably be found. All this can be done without an authorization. It is not necessary to apply this exception to government vehicles, as they maybe searched any time and any place under the provisions of MRE 314(d).

SEARCHES NOT REQUIRING PROBABLE CAUSE

MRE 314 lists several types of lawful searches that do not require either a prior search authorization or probable cause.

Searches Upon Entry to or Exit From U.S. Installations, Aircraft, and Vessels Abroad

Commanders of military installations, aircraft, or vessels located abroad may authorize personnel to conduct searches of persons or property upon entry to or exit from the installation, aircraft, or vessel. The justification for the search is the need to make sure the security, military fitness, or good order and discipline of the command are maintained.

Consent Searches

If the owner, or other person in a position to do so, consents to a search of his or her person or property over which he or she has control, a search may be conducted by anyone for any reason (or for no reason) pursuant to MRE 314(e). If a free and voluntary consent is obtained, no probable cause is required. For example, where an investigator asks the accused if he or she "might check his or her personal belongings" and the accused answers, "Yes . . . it's all right with me," the Court of Military Appeals has found that there was consent.

The court has also said, however, that mere agreement in the face of authority is not consent. Thus, where the CO and the chief Master-at-Arms appeared at the accused's locker with a pair of bolt cutters and asked if they could search, the accused's affirmative answer was not consent. The question in each case will be whether consent was freely and voluntarily given. Voluntary consent can be obtained from a suspect who is under apprehension if all other facts indicate it is not mere acquiescence.

Except under the Navy's urinalysis program, there is no absolute requirement that an individual who is asked for consent to search be told of the right to refuse such consent, nor is there any requirement to warn under Article 31(b), even when the individual is a suspect before consent is requested, (OPNAVINST 5350.4 currently requires the Navy to inform a member of his or her right to refuse a consent urinalysis.) Both warnings can help show that consent was voluntarily given. The courts have been unanimous in finding such warnings to be strong indicia that any waiver of the right to privacy thereafter given was free and voluntary.

Additionally, use of a written consent to search form is a sound practice. JAGMAN 0170 and figure 3-2

CONSENT TO SEARCH
(See JAGMAN 0170)

I,_____, have been advised that inquiry is being made in connection with _____. I have been advised of my right not to consent to a search of [my person] [the premises mentioned below]. I hereby authorize _____ and _____, who [has] [have been] identified to me as _____ to conduct a complete search of
Position(s)
my [person] [residence] [automobile] [wall locker] [_____] located at _____.

I authorize the above listed personnel to take from the area searched any letters, papers, materials, or other property which they may desire. This search may be conducted on _____.
Date

This written permission is being given by me to the above named personnel voluntarily and without threats or promises of any kind.

_____
Signature

WITNESSES

_____

_____

Figure 3-2.—Consent to search.

Illustrate the consent to search form that should be used. Remember that since the consent itself is a waiver of a constitutional right by the person involved, it may be limited in any manner or revoked at any time. The fact that you have the consent in writing does not make it binding on a person if a withdrawal or limitation is communicated. Refusing to give consent or revoking it does not then give probable cause where none existed before. You cannot use the legitimate claim of a constitutional right to infer guilt or that the person must be hiding something.

Even where consent is obtained, if any other information is solicited from one suspected of an offense, proper Article 31 warnings and, in most cases, counsel warnings must be given.

As previously noted, we use the term *control* over property rather than ownership. For instance, if Seaman Frost occupies a residence with her male companion, John Doe, John can consent to a search of the residence. Suppose, however, that Seaman Frost keeps a large tin box at the residence to which John is not allowed access. The box would not be subject to a search based upon John's consent. He could only consent to a search of those places or areas where Seaman Frost has given him control. Likewise, if Seaman Frost maintained her own private room within the residence, and John was not permitted access to the room by her, John could not give consent for a search of that room.

Stop and Frisk

Although most often associated with civilian police officers, this type of limited seizure of the person is specifically included in MRE 314(f). It does not require probable cause to be lawful and is most often used in situations where an experienced officer, chief petty officer, or petty officer is confronted with circumstances that just do not seem right. This articulable suspicion allows the law enforcement officer to detain an individual to ask for identification and an explanation of the observed circumstances. This is the stop portion of the intrusion. Should the person who orders the stop have reasonable grounds to fear for his or her safety, a limited frisk or pat down of the outer garments of the person stopped is permitted to find out whether a weapon is present. If any weapon is discovered in this pat down, its seizure can provide probable cause for apprehension and a later search incident thereto. There is, however, no right to frisk or pat down a suspect in situations where no apprehension of personal danger is involved, nor can the frisk be conducted in a more than cursory manner to ensure safety. Further, any detention must be brief and related to the original suspicion that underlies the stop.

Searches Incident to Lawful Apprehension

A search of an individual's person, of the clothing he or she is wearing, and of the places into which he or she could reach to obtain a weapon or destroy evidence is a lawful search if conducted incident to a lawful apprehension of that individual and pursuant to MRE 314(g).

Apprehension is the taking into custody of a person. This means the imposition of physical restraint and is substantially the same as civilian arrest. It differs from military arrest, which is merely the imposition of moral restraint.

A *search* incident to a lawful apprehension will be lawful if the apprehension is based upon probable cause. This means the apprehending official is aware of facts and circumstances that would justify a reasonable person to conclude that an offense had been or is being committed and the person to be apprehended committed or is committing the offense.

The concept of probable cause as it relates to apprehension differs somewhat from that associated with probable cause to search. Instead of concerning oneself with the location of evidence, the second inquiry concerns the actual perpetrator of the offense.

An apprehension may not be used as a subterfuge to conduct an otherwise unlawful search. Furthermore, only the person apprehended and the immediate area where that person could easily obtain a weapon or destroy evidence may be searched. For example, a locked suitcase next to the person apprehended may not be searched incident to the apprehension, but it may be seized and held pending authorization for a search based on probable cause.

Until recently, the extent to which an automobile might be searched incident to the apprehension of the driver or passengers therein was unsettled. In 1981, however, the U.S. Supreme Court firmly established the lawful scope of such apprehension searches. The court held that when a law enforcement officer lawfully apprehends the occupants of an automobile, the officer may conduct a search of the entire passenger compartment, including a locked glove compartment, and any containers found therein, whether opened or closed.

Decisions of the U.S. Supreme Court have further limited the scope of a search incident to apprehension where the suspect possesses a briefcase, duffel bag, footlocker, suitcase, and so on. If it is shown that the object carried or possessed by a suspect was searched incident to the apprehension (that is, at the same time as the apprehension), then the search of that item is likely to be upheld. If, however, the suspect is taken away to be interrogated in room 1 and the suitcase is taken to room 2, a search of the item would not be incident to the apprehension, since it is outside the reach of the suspect. Here, search authorization would be required.

Emergency Searches to Save Life or for Related Purposes

In emergency situations, MRE 314(i) permits searches to be conducted to save lives or for related purposes. The search may be performed in an effort to render immediate medical aid, to obtain information that will assist in the rendering of such aid, or to prevent immediate or ongoing personal injury. Such a search must be conducted in good faith and may not be a subterfuge to circumvent an individual's Fourth Amendment protections.

Plain View Searches

When a Government official is in a place where he or she has a lawful right to be, whether by invitation or official duty, evidence of a crime observed in plain view may be seized, according to MRE 316. An often repeated example of this type of lawful seizure arises during a wall locker inspection. While the searcher is looking at the uniforms of a certain service member, a bag of marijuana falls to the deck. Its seizure as contraband is justifiable under those circumstances, as having been observed in plain view. Another situation could arise while a searcher is carrying out a duly authorized search for stolen property and comes upon a gun in the search area; since the gun is contraband, it is both seizable and admissible in court-martial proceedings.

Body Views and Intrusions

Under certain circumstances defined in MRE312, evidence that is the result of a body view or intrusion will be admissible at court-martial. There are also situations where such body views and intrusions may be performed in a nonconsensual manner and still be admissible.

Visual examination of the unclothed body maybe made with the consent of the individual subject to the inspection. An involuntary display of the unclothed body, including a visual examination of body cavities, may be required only if conducted in reasonable fashion and authorized under the following provisions of the Military Rules of Evidence:

- Inspections and inventories under MRE 313
- Searched under MRE 314(b) and 314(c) if there is a reasonable suspicion that weapons, contraband, or evidence of a crime is concealed on the body of the person to be searched
- Searched within jails and similar facilities under MRE 314(h) if reasonably necessary to maintain the security of the institution or its personnel
- Searched incident to lawful apprehension under MRE 315

An examination of the unclothed body under this rule should be conducted whenever practical by a person of the same sex as the person being examined; failure to comply with this requirement does not make an examination an unlawful search within the meaning of MRE 311.

A reasonable nonconsensual physical intrusion into the mouth, nose, and ears may be made when a visual examination of the body is permissible. Nonconsensual intrusions into other body cavities may be made under the following categories.

For purposes of seizure—When there is a clear indication that weapons, contraband, or other evidence of a crime is present, to remove weapons, contraband, or evidence of a crime discovered if such intrusion is made in a reasonable fashion by a person with appropriate medical qualifications.

For purposes of search—To search for weapons, contraband, or evidence of a crime if authorized by a search warrant or search authorization and conducted by a person with appropriate medical qualifications.

Notwithstanding this rule, a search under MRE 314(h) may be made without a search warrant or authorization if such search is based on a reasonable suspicion that the individual is concealing weapons, contraband, or evidence of a crime.

Extraction of bodily fluids—The nonconsensual extraction of body fluids; for example, blood, is permissible under the two following circumstances:

- Pursuant to a lawful search authorization

- Where the circumstances show a clear indication that evidence of a crime will be found and that there is reason to believe that the delay required to seek a search authorization could result in the destruction of the evidence

Involuntary extraction of body fluids, whether conducted pursuant to either situation mentioned previously, must be done in a reasonable fashion by a person with the appropriate medical qualifications. (It is likely that physical extraction of a urine sample would be considered a violation of constitutional due process, even if based on an otherwise lawful search authorization.) Note that an order to provide a urine sample through normal elimination, as in the typical urinalysis inspection, is not an extraction and need not be conducted by medical personnel.

Intrusions for valid medical purposes—The military may take whatever actions are necessary to preserve the health of a service member. Thus, evidence or contraband obtained from an examination or intrusion conducted for a valid medical purpose may be seized and will be admissible at a court-martial.

THE USE OF DRUG-DETECTOR DOGS

LEARNING OBJECTIVES: Describe some of the considerations and requirements when using drug-detector dogs.

Military working dogs can be used as drug-detector dogs. As such, they can be used to assist in the obtaining of evidence for use in courts-martial. Some of the ways they can be used include their use in gate searches or other inspections under MRE 313 and to establish the probable cause necessary for a later search.

One situation where the use of the dog was considered permissible was during a gate search conducted on an overseas installation. The dog's alert was used to establish probable cause to apprehend the accused. All evidence obtained was held to be admissible. Recently, the Court of Military Appeals held that the use of detector dogs at gate searches in the United States was also reasonable.

In another case, the Court of Military Appeals permitted a detector dog to be brought to an automobile believed to contain marijuana. The dog alerted on the car's rear wheels and exterior, and that prompted the police to detain the accused. The proper commander was then notified of this alert and of other circumstances surrounding the case. The search of the vehicle was then conducted pursuant to the authorization of the commander.

The court held that the use of the marijuana dog in an area surrounding the car was lawful. The mere act of monitoring airspace surrounding the vehicle did not involve an intrusion into an area of privacy. Thus, the dog's alert was not a search, but a fact that could be relayed to the proper commander for a determinaion of probable cause. The Supreme Court has also held that using a dog in a common area to sniff a closed suitcase is not a search at all.

Close attention must be given to establishing the reliability of the informers in this situation; for example, the dog and dog-handler. The drug-detector dog is simply an informant. As in the usual informant situation, there must be a showing of the dog's alert and the dog's reliability. This reliability may be determined by the CO through either of two commonly used methods. The first method is for the CO to observe the accuracy of a particular dog's alert in a controlled situation. The second method is for the CO to review the record of the particular dog's previous performance in actual cases, Although either of these methods may be sufficient by itself for a determination that a dog is reliable, both should be used whenever practical. For more information on the use of military working dogs as drug detectors and establishing their reliability as such, see the *Military Working Dog Manual,* OPNAVINST 5585.2.

A few words of caution about the use of drug dogs. One court has stated that a military commander who participates in an inspection involving the use of detector dogs in the command area cannot later authorize a search based upon later alerts by the same dogs during that use. This illustrates the point that any person swept into the evidence-gathering process may find it impossible later to be considered an impartial official. The provisions of the Military Rules of Evidence are geared to lessen the effect in this type of case, in that mere presence at the scene is not per se disqualifying; but again, the line is difficult to draw.

In summary, the use of dogs for the purpose of ferreting out drugs or contraband that threatens military security and performance is reasonable means to provide probable cause when

- the dog alerts in a common area such as a barracks or passageway, or

- the dog alerts on the airspace extending from an area where there is an expectation of privacy.

INSPECTIONS AND INVENTORIES

LEARNING OBJECTIVES: Explain the general considerations regarding inspections, and list some of the requirements for inventories.

Although not within either category of searches (prior authorization or without prior authorization), administrative inspections and inventories conducted by Government agents may yield evidence admissible in trials by court-martial. MRE 313 codifies the law of military inspections and inventories. Some traditional terms that were formerly used to describe various inspections; for example, shakedown search, have been abandoned as being confusing. If carried out lawfully, inspections and inventories are not designed to be quests for evidence and thus are not searches in the strictest sense. It follows, then, that items of evidence found during these inspections are admissible in court-martial proceedings. If inspections or inventories are primarily a quest for evidence directed at certain individuals or groups, the inspection is actually a search, and evidence seized will not be admissible.

INSPECTIONS

MRE 313(b) defines *inspection as an* "examination . . . conducted as an incident of command the primary purpose of which is to determine and to ensure the security, military fitness, or good order and discipline of the unit, organization, installation, vessel, aircraft, or vehicle." Thus, an inspection is conducted to make sure mission readiness is part of the inherent duties and responsibilities of those in the military chain of command. Because inspections are intended to discover, correct, and deter conditions detrimental to military efficiency and safety, they are considered necessary to the existence of any effective armed force and inherent in the very concept of a military organization.

MRE 313(b) makes it clear that "an examination made for the primary purpose of obtaining evidence for use in a trial by court-martial or in other disciplinary proceedings is not an inspection within the meaning of this rule." An otherwise valid inspection is not rendered invalid solely because the inspector has as his or her secondary purpose that of obtaining evidence for use in a trial by court-martial or in other disciplinary proceedings.

For example, assume Captain Jones suspects Seaman Doe of possessing marijuana because of an anonymous tip received by telephone. Captain Jones cannot proceed to Seaman Doe's locker and inspect it because what he would really be doing is searching it—looking for the marijuana. How about an inspection of all lockers in Seaman Doe's wing of the barracks? That would afford Captain Jones an opportunity to get into Seaman Doe's locker on a pretext. And note that this is not a lawful probable-cause search because the captain has no underlying facts and circumstances from which to conclude that the informer is reliable or that his or her information is believable.

Suppose, however, that Captain Jones, having no information concerning Seaman Doe, is seeking to remove contraband from his command, prevent removal of Government property, and reduce drug trafficking. He establishes inspections at the gate. Those entering and leaving through the gate have their persons and vehicles inspected on a random basis. Captain Jones is not trying to get goods on Seaman Doe or any other particular individual. Seaman Doe carries marijuana through the gate and is inspected. The inspection is a reasonable one; the trunk of the vehicle, under its seats, and Seaman Doe's pockets are checked. Marijuana is discovered in Seaman Doe's trunk. The marijuana was discovered incident to the inspection. Seaman Doe was not singled out and inspected as a suspect. Here, the purpose was not to get Seaman Doe, but merely to deter the flow of drugs or the contraband. The evidence would be admissible.

An inspection may be made of the whole or any part of a unit, organization, installation, vessel, aircraft, or vehicle. Inspections are quantitative examinations because they do not single out specific individuals or very small groups of individuals. There is, however, no legal requirement that the entirety of a unit or organization be inspected. An inspection should be totally exhaustive (for example, every individual of the chosen component is inspected) or it should be done on a random basis, by inspecting individuals according to some rule of chance. Such procedures will be an effective means to avoid challenges based on grounds that the inspection was a subterfuge for a search. Unless authority to so do has been withheld by competent superior authority, any individual placed in a command or appropriate

supervisory position may inspect the personnel and property within his or her control.

An inspection also includes an examination to locate and confiscate unlawful weapons and other contraband. *Contraband* is defined as "material the possession of which is by its very nature unlawful." Material may be declared to be unlawful by appropriate statute, regulation, or order. For example, liquor is prohibited aboard ship and would be contraband if found in Seaman Doe's seabag aboard ship, although it might not be contraband if found in Seaman Jones' BEQ room.

MRE 313(b) indicates that certain classes of contraband inspections are especially likely to be subterfuge searches and thus not inspections at all. If the contraband inspection (1) occurs immediately after a report of some specific offense in the unit and was not previously scheduled; (2) singles out specific individuals for inspection; or (3) inspects some people substantially more thoroughly than others, then the Government must prove that the inspection was not actually a subterfuge search.

As a practical matter, the rule expresses a clear preference for previously scheduled contraband inspections. Such scheduling helps make sure the inspection is a routine command function and not an excuse to search specific persons or places for evidence of a crime. The inspection should be scheduled sufficiently far enough in advance to eliminate any reasonable chance that the inspection is being used as a subterfuge. Such scheduling may be made as a matter of date or event. In other words, inspections may be scheduled to take place on any specific date, or on the occurrence of a specific event beyond the usual control of the commander. The previously scheduled inspection, however, need not be preannounced.

MRE 313(b) permits a person acting as an inspector to use any reasonable natural or technological aid in conducting an inspection. The marijuana detection dog, for instance, is a natural aid that may be used to assist an inspector in more accurately discovering marijuana during an inspection of a unit for marijuana. If the dog should alert on an area that is not within the scope of the inspection, however, that area may not be searched without a prior authorization. Also, where the CO is conducting the inspection when the dog alerts, he or she should not authorize the search himself or herself, but should seek authorization from some other competent authority.

INVENTORIES

MRE 313(c) codifies case law by recognizing that evidence seized during a bona fide inventory is admissible. The rationale behind this exception to the usual probable-cause requirement is that such an inventory is not prosecutorial in nature and is a reasonable intrusion. Commands may inventory the personal effects of members who are on an unauthorized absence, placed in pretrial confinement, or hospitalized. Contraband or evidence incidentally found during such a legitimate inventory will be admissible in a later criminal proceeding. However, an inventory may not be used as a subterfuge for a search.

DRUG ABUSE DETECTION

LEARNING OBJECTIVES: Describe the Navy's urinalysis program and the types of tests given. Explain the uses of urinalysis tests.

Not in My Navy and Zero Tolerance are the Navy's call to arms in the war on drugs. These statements reflect our commitment to the elimination of illicit drugs and drug abusers from the Naval Establishment and the continued emphasis placed on deterrence, leadership, and expeditious action, While the options available to commanders in combating drug abuse are many and varied, this section deals only with the Urinalysis Program and its limitations.

THE URINALYSIS PROGRAM

The Urinalysis Program of the Navy was established to provide a means for the detection of drug abuse and to serve as a deterrent against drug abuse. OPNAVINST 5350.4 contains guidelines on alcohol and drug abuse prevention and control. Additional guidance is found in the MRE. These rules and directives contain detailed guidelines for the collection, analysis, and use of urine samples.

The positive results of a urinalysis test may be used for a number of distinct purposes, depending on how the original sample was obtained. Therefore, it is important to be able to recognize when, and under what circumstances, a command may conduct a proper urinalysis.

TYPES OF TESTS

OPNAVINST 5350.4 directs that commanders, COs, and OICs should conduct an aggressive urinalysis testing program, adapted as necessary to meet unique unit and local situations. The specific types of urinalysis testing and authority to conduct them are described in the following paragraphs.

SEARCH AND SEIZURE

Members suspected of having unlawfully used drugs may be requested to consent to urinalysis testing. For consent to be valid, it must be voluntarily given. In this regard, OPNAVINST 5350.4 provides that, before requesting consent, commands should advise the member that he or she is "suspected of drug use and may decline to provide a sample." A recommended urinalysis consent form is shown in figure 3-3.

- Probable cause and authorization. Urinalysis testing may be ordered, according to MRE 312(d) and 315, whenever there is probable cause to believe that a member has wrongfully used drugs and that a test will produce evidence of such use. For example, during a routine locker inspection in the enlisted barracks, you find an open bag of what appears to be marijuana under some clothes in Petty Officer Frost's wall locker. Along with the marijuana you find a roach clip and some rolling papers. You notify the CO of your findings and the CO sends for Frost. A few minutes later, Frost staggers into the CO's office—eyes red and speech slurred—Frost is immediately apprehended and

URINALYSIS CONSENT FORM

I, _____, having been requested to provide a urine sample, have been advised that:

(1) I am suspected of having unlawfully used drugs;

(2) I may decline to consent to provide a sample of my urine for testing;

(3) If a sample is provided, any evidence of drug use resulting from urinalysis testing may be used against me in a court-martial.

I consent to providing a sample of my urine. This consent is given freely and voluntarily by me, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me.

_____
Signature

_____
Date

_____
Witness' signature

_____
Date

Figure 3-3.—Urinalysis consent form.

searched. A marijuana cigarette is found in his shirt pocket. Under these facts, a commander would have little trouble finding probable cause to order that a urine sample be given.

- Probable cause and exigency. MRE 315 recognizes that there may not always be sufficient time or means available to communicate with a person empowered to authorize a search before the evidence is lost or destroyed. This lack of time is most commonly seen in the operable vehicle setting, and facts could easily give rise to support an exigency search of a member's body fluids. Remember, to be lawful, an exigency search must still be based upon a finding of probable cause.

URINALYSIS INSPECTIONS UNDER MRE 313

Commanders may order urinalysis inspections, just as they may order any other inspection, to determine and make sure of the security, military fitness, and good order and discipline of the command. Urinalysis inspections may be ordered for the primary purpose of obtaining evidence for trial by court-martial or for other disciplinary purposes would defeat the purpose of an inspection and make it a search. Commands may use a number of methods of selecting service members or groups of members for urinalysis inspection, including (but not limited to) the following:

- Random selection of individual service members from the entire unit or from an identifiable segment or class of that unit. Random selection is achieved by making sure each service member has an equal chance of being selected each time personnel are chosen,

- Selection, random or otherwise, of an entire subunit or identifiable segment of a command. Examples of such groups include an entire department, division, or watch section; all personnel within specific paygrades; all newly reporting personnel; or all personnel returning from leave, liberty, or unauthorized absence (UA).

- Urinalysis testing of an entire unit. As a means of quota control, Navy commands are required to obtain second-echelon approval before conducting all unit sweeps and random inspections involving more than 20 percent of a unit, or 200 members. Failure to obtain such approval, however, will not invalidate the results of the testing.

SERVICE-DIRECTED TESTING

Service-directed testing is actually nothing more than inspections of units expressly designated by the Chief of Naval Operations (CNO). These include rehabilitation facility staff; security personnel; A school candidates; officers and enlisted in the accession pipeline; and those executing permanent change of station (PCS) orders to an overseas duty station.

VALID MEDICAL PURPOSES

Urinalyses and blood tests also may be performed to assist in the rendering of medical treatment (for example, emergency care, periodic physical examinations, and such other medical examinations as are necessary for diagnosis or treatment). Do not confuse this with a fitness-for-duty examination ordered by a service member's command.

FITNESS-FOR-DUTY TESTING

Categories of fitness-for-duty urinalysis testing are briefly described as follows. Generally, all urinalyses not the product of a lawful search and seizure, inspection, or valid medical purpose fall within the fitness- for-duty/command-directed categories.

- Command-directed testing. A command-directed test will be ordered by a member's CO or OIC, or other authorized individual, whenever the member's behavior, conduct, or involvement in an accident or other incident gives rise to a reasonable suspicion of drug abuse and a urinalysis has not been conducted on a probable cause or con sensual basis. Command-directed tests are often ordered when suspicious or bizarre behavior does not amount to probable cause.

- Aftercare and surveillance testing. *Aftercare testing is* periodic command-directed testing of identified drug abusers as part of a plan for continuing recovery following a rehabilitation program. *Surveillance testing* is periodic command-directed testing of identified drug abusers who do not participate in a rehabilitation program, as a means of monitoring for further drug abuse.

- Evaluation testing. This refers to command-directed testing when a commander has doubt as to the member's wrongful use of drugs following a laboratory-confirmed urinalysis result. Evaluation testing should be conducted twice a week for a maximum of 8

weeks and is often referred to as a two-by-eight evaluation.

- Safety investigation testing. A CO or any investigating officer may order urinalysis testing in connection with any formally convened mishap or safety investigation.

USES OF URINALYSIS RESULTS

Of particular importance to the command is what use may be made of a positive urinalysis. The results of a lawful search and seizure, inspection, or a valid medical purpose may be used to refer a member to a Department of Defense (DOD) treatment and rehabilitation program, to take appropriate disciplinary action, or to establish the basis for a separation and for characterization in a separation proceeding.

The results of a command-directed/fitness-for-duty urinalysis may not be used against the member for any disciplinary purposes or on the issue of characterization of service in separation proceedings except when used for impeachment or rebuttal in any proceeding that evidence of drug abuse has been first introduced by the member. In addition, positive results obtained from a command-directed fitness-for-duty urinalysis may not be used as a basis for vacation of a suspension of punishment imposed under Article 15, UCMJ, or a result of court-martial. Such results may, however, serve as the basis for referral of a member to a DOD treatment and rehabilitation program and as a basis for administrative separation.

What administrative or disciplinary action can be taken against service members identified as drug abusers through service-directed urinalysis testing varies, depending upon which CNO-designated unit was tested. The only constant is that all service-directed testing may be considered as the basis for administrative separation.

THE COLLECTION PROCESS

The weakest link in the urinalysis program chain is in the area of collection and custody procedures. Commands should conduct every urinalysis with the full expectation that administrative or disciplinary action might result. The use of chiefs and officers as observers and unit coordinators is strongly encouraged. Strict adherence to direct observation policy during urine collection to prevent substitution, dilution, or adulteration is an absolute necessity. All samples should be mailed immediately after collection to reduce the possibility of tampering. Make sure all documentation and labels are legible and complete. Special attention should be given to the ledger and chain of custody to make sure they are all accurate, complete, and legible. Additional guidance is provided in OPNAVINST 53530.4.

SUMMARY

In this chapter, we examined the sources of the law of search and seizure and some of the language used. Next we covered the categories of evidence and searches. The use of drug-detector dogs, requirements for inspections and inventories, and the Navy's urinalysis program were also considered.